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PATENT  
102.0010-01000  
Express Mail Label No. EL399233491US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary K. Michelson, M.D.

Serial No: 08/480,461

Filed: June 5, 1995

For: INSTRUMENTATION FOR THE  
SURGICAL CORRECTION OF  
HUMAN THORACIC AND  
LUMBAR SPINAL DISEASE FROM  
THE LATERAL ASPECT OF THE  
SPINE (AS AMENDED)

Art Unit: 3764

Examiner: Brown, M.

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Box AF  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

**REQUEST FOR WITHDRAWAL OF FINALITY UNDER 37 C.F.R. § 1.129**

This application was filed prior to June 8, 1995 and claims priority under 35 U.S.C. § 120 to earlier filed application Serial No. 07/205,935 filed June 13, 1988, now U.S. Patent No. 5,015,247. A copy of the official Filing Receipt for the instant application is enclosed as "Exhibit A" hereto for the Examiner's convenience. Taking into account the references made to earlier filed applications under 35 U.S.C. § 120, this application has been pending for more than two years as of June 8, 1995, has not been abandoned, and no appeal brief has been filed.

Accordingly, pursuant to 37 C.F.R. § 1.129(a), Applicant is entitled to have a first submission entered and considered on the merits after final rejection. Applicant respectfully requests that the finality of the Office Action dated September 2, 1999 be withdrawn and that the amendment submitted herewith be entered and considered on the merits. The fee set forth under 37 C.F.R. § 1.17(r) is enclosed.

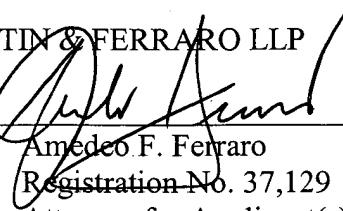
If there are any fees due in connection with the filing of this response, please charge our Deposit Account Number 50-1068. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for in the papers accompanying this response, such an extension is requested and the fee should also be charged to our Deposit Account.

Should you have any further questions, please contact the undersigned directly.

Respectfully submitted,

MARTIN & FERRARO LLP

By:

  
Amedeo F. Ferraro  
Registration No. 37,129  
Attorney for Applicant(s)

Date: February 28, 2000

14500 Avion Parkway, Suite 300  
Chantilly, Virginia 20151-1101  
Telephone: 703-679-9300  
Facsimile: 703-679-9303

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

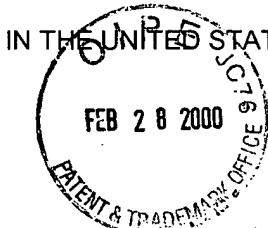
In re application of:  
Gary K. Michelson, M.D.

Serial No: 08/480,461

Filed: June 7, 1995

For: INSTRUMENTATION FOR THE  
SURGICAL CORRECTION OF  
HUMAN THORACIC AND LUMBAR  
SPINAL DISEASE FROM THE  
LATERAL ASPECT OF THE SPINE  
(AS AMENDED)

Art Unit: 3764  
Examiner: Brown, M.



Box AF  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

Transmitted herewith is an amendment in the above-identified application.

- No additional fee is required.  
 Request for Withdrawal of Finality.  
 Change of Correspondence Address.

The fee has been calculated as shown below:

	(Col. 1) CLAIMS REMAINING AFTER AMENDMENT		(Col. 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Col. 3) PRESENT EXTRA*	LG/SM \$ ENTITY FEE		ADD'L FEE DUE
TOTAL CLAIMS FEE	46	-	67	**	0	LG=\$18 SM=\$9	\$18
INDEPENDENT CLAIMS FEE	4	-	9	***	0	LG=\$78 SM=\$39	\$78
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS					LARGE ENTITY FEE = \$260 SMALL ENTITY FEE = \$130		\$ 0
					TOTAL		\$ 0

\* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.

\*\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space. The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box on Col. 1 of a prior amendment or the number of claims originally filed.

- A check in the amount of \$ 0 to cover the additional claims fee is enclosed. **A copy of this sheet is enclosed.**
- A check in the amount of \$ 1,560.00 to cover the \$870.00 three-month extension of time fee and \$690.00 Request for Withdrawal of Finality fee is enclosed. **A copy of this sheet is enclosed.**
- The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-1068. **A copy of this sheet is enclosed.**
- Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims
- Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,  
MARTIN & FERRARO, LLP

By:

Amedeo F. Ferraro  
Registration No. 37,129  
Attorney for Applicant(s)

Date: February 28, 2000

14500 Avion Parkway, Suite 300  
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Telephone: 703-679-9300  
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## PATENT

Attorney Docket No: 102.0010-01000

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary K. Michelson, M.D.

Serial No: 08/480,461

Filed: June 7, 1995

For: INSTRUMENTATION FOR THE  
SURGICAL CORRECTION OF HUMAN  
THORACIC AND LUMBAR SPINAL  
DISEASE FROM THE LATERAL ASPECT  
OF THE SPINE (AS AMENDED)

Art Unit: 3764

Examiner: Brown, M.

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Dear Sir:

I hereby certify that

- Transmittal letter
- Reply to Office Action
- Request for Withdrawal of Finality
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- Return postcard

are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service with sufficient postage under 37 C.F.R. § 1.10 on the date indicated above and are addressed to:

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Date: February 28, 2000  
14500 Avion Parkway, Suite 300  
Chantilly, VA 20151-1011  
Telephone: 703-679-9300  
Facsimile: 703-679-9303

Lisa K. Robbins

Name of person mailing papers

Lisa K. Robbins

Signature

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03/02/2000 SLUANG 00000026 08480461

02 FC:146 690.00 OP